IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1802 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

PRATAPSINH M PARMAR - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 21/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 4th September, 1998 passed by the Presiding Officer, Labour Court at Kalol (N.G.) in Reference [LCK] No.42 of 1986 whereby, the Labour Court has directed the petitioner to reinstate the respondent on his original post without back wages.

2. The short facts of the case are that the respondent workman was appointed as a Badli worker on 31st March, 1981 and in all he had worked for 213 days during the period from April, 1981 to April, 1984.

2.1. On 25th March, 1983, when the respondent was on duty in a ST Bus route from Mehsana to Dhinoj, he was found under the influence of alcohol. In view of this misconduct a complaint was filed before the Dhinoj Police Station, whereby, a case was registered against the respondent workman and he was arrested. However, later on he was enlarged on bail.

2.2. Thereafter, the respondent workman was tried before the trial Court in a Criminal Case No. 659/83 registered against him and the trial court in view of the provisions of Section 117 of the Motor Vehicles Act, vide order dated 3rd February, 1984, imposed a penalty of fine of Rs.500=00 and imprisonment for the period of one month under Section for the alleged misconduct. However, in view of the Service Regulations of the petitioner Corporation, a show cause notice dated 6th April, 1984 was issued and vide order dated 25th April, 1984 his name was removed from the waiting list.

2.3. Being aggrieved by the said order dated 25th April, 1984, the respondent raised an industrial dispute which was ultimately, referred to the Labour Court, Kalol for adjudication. The Labour Court after considering the case

on merits, passed the impugned order with the aforesaid directions. Hence, this petition.

3. Mr. Munshaw learned advocate for the petitioner has contended that the Labour Court has committed an error in considering the fact that the respondent workman was a daily wager and that he had not worked for 240 days in a year and, therefore, the Labour Court ought not to have granted reinstatement.

3.1. Mr. Munshaw has further submitted that the Labour Court has erred in not considering the report dated 4th March, 1983, whereby it was clearly stated that the respondent workman was found in alcoholic condition and that had met with an accident, whereby the Administrative Officer has also opined that even if the respondent workman is not convicted, he is not required to be reinstated and he should not be allowed to continue in service. Mr. Munshaw has further submitted that if such a workman is allowed to continue in service, then, it will not only cause loss to the petitioner Corporation but also to the public at large, since it is a public body and is included in the essential services.

4. I have heard the learned advocate for the petitioner. Though served none appears on behalf of the respondent. While admitting this petition, this Court has confirmed the ad-interim relief granted vide order dated 12th March, 1999. Having perused the materials produced on record, it appears that the impugned order passed by the Labour Court

is erroneous *inasmuch* as the respondent workman was working as a Daily wager and he was not a regularized employee. Moreover, he had not worked for 240 days in a year and, therefore, the provisions of Section 25-F of the Industrial Disputes Act, 1947 will not be attracted in the present case. Apart from that since the waiting list was cancelled, the respondent workman was relieved from the service vide order 25th April, 1984.

4.1. The Labour Court has also considered the fact that he was found in a alcoholic condition and that he had met with an accident, thereby putting the lives of the public at large in danger. Thus, on these grounds, I am of the opinion that the impugned order passed by the Labour Court is required to be quashed and set aside.

5. For the foregoing reasons, the petition is allowed. The order dated 4th September, 1998 passed by the Presiding Officer, Labour Court at Kalol (N.G.) in Reference [LCK] No.42 of 1986 is quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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